



Virginia
Regulatory
Town Hall

Proposed Regulation Agency Background Document

Agency Name:	Department of Criminal Justice Services
VAC Chapter Number:	6 VAC 20-20-10 through 20-20-100
Regulation Title:	Rules Relating to Compulsory Minimum Training Standards for Law Enforcement
Action Title:	Law Enforcement Physical Standards
Date:	4-28-2000

This information is required pursuant to the Administrative Process Act (§ 9-6.14:9.1 *et seq.* of the *Code of Virginia*), Executive Order Twenty-Five (98), Executive Order Fifty-Eight (99), and the *Virginia Register Form, Style and Procedure Manual*. Please refer to these sources for more information and other materials required to be submitted in the regulatory review package.

Summary

Please provide a brief summary of the proposed new regulation, proposed amendments to an existing regulation, or the regulation proposed to be repealed. There is no need to state each provision or amendment or restate the purpose and intent of the regulation; instead give a summary of the regulatory action and alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

The revised Compulsory Minimum Training Standards for Law Enforcement Officers were adopted in December, 1997, with the exception of Category 9. This category was adopted as optional for implementation until further study of the physical tasks of law enforcement officers could be conducted and substantial data gathered related to this aspect of law enforcement work. This study has been completed, the data has been analyzed, and the standards modified appropriately. This submission recommends that the proposed physical standards be mandated as part of entry-level training for law enforcement officers.

Basis

Please identify the state and/or federal source of legal authority to promulgate the regulation. The discussion of this statutory authority should: 1) describe its scope and the extent to which it is mandatory or discretionary; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. In addition, where applicable, please describe the extent to which proposed changes exceed federal minimum requirements. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided. Please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the proposed regulation and that it comports with applicable state and/or federal law.

Pursuant to the statutory authority set forth by Section 9-170(1) of the Code of Virginia (1950) as amended, the Criminal Justice Services Board (CJSB) will amend and revise its regulations relating to entry-level law enforcement training. **There are no federal minimum requirements involved. The Office of the Attorney General in a letter dated April 19, 2000, confirms that the agency has statutory authority to promulgate the proposed regulation. The regulation is in compliance with applicable state law.**

Purpose

Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the proposed regulatory action and detail the specific reasons it is essential to protect the health, safety or welfare of citizens. A statement of a general nature is not acceptable, particular rationales must be explicitly discussed. Please include a discussion of the goals of the proposal and the problems the proposal is intended to solve.

The purpose for amending the regulations is to incorporate changes identified through the 1995 state-wide job task analysis and the subsequent study related to the physical tasks that law enforcement officers should be able to perform. Current rules were adopted in 1997 with the exception of Category 9, Physical Issues, which was made optional at that time. The proposed change to the regulations mandates the compulsory minimum training standards related to physical tasks that must be met by entry-level officers. Successful achievement of each training objective related to a physical task that must be performed as a requirement of the position by every newly employed officer attending entry-level law enforcement training is now required.

Successful achievement of all training objectives is the standard that assures minimum competency in the performance of law enforcement duties throughout the Commonwealth. The safety of the public and the officer is paramount in setting forth these requirements while providing protection from incompetent or unqualified persons from performing law enforcement duties.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. Please note that a more detailed discussion is required under the statement providing detail of the regulatory action's changes.

Category 9, Physical Issues, of the Rules Relating to Compulsory Minimum Training Standards for Law Enforcement is proposed to become part of the mandated minimum standards by removal of the word "Optional." The intent of these regulations was to include minimum physical training standards at the time of the revision. However, in order to further delineate appropriate training methodologies and document appropriate measures for successful achievement of the training objectives, the Department of Criminal Justice Services conducted an additional study related to these tasks. The results of this study support the recommendation to mandate this category.

Issues

Please provide a statement identifying the issues associated with the proposed regulatory action. The term "issues" means: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please include a sentence to that effect.

The advantage that mandating this category in the regulations is that it provides to the public is an assurance of a minimum level of physical competency to perform the tasks required by all law enforcement officers throughout the Commonwealth. It further assures that an officer will be fully capable of handling confrontations with suspects or perpetrators of criminal acts with the least amount of force necessary to control the individual situation. This will result in increased safety for citizens, fellow officers, suspects, and the officer him/herself. Additionally, studies have indicated that officers that are more physically able to perform their duties display greater confidence, command presence, and professional demeanor. As an ancillary benefit, the positive impact on the health of law enforcement officers will reflect advantageously in reducing lost time due to illness, medical costs, and insurance premiums.

Fiscal Impact

Please identify the anticipated fiscal impacts and at a minimum include: (a) the projected cost to the state to implement and enforce the proposed regulation, including (i) fund source / fund detail, (ii) budget activity with a cross-reference to program and subprogram, and (iii) a delineation of one-time versus on-going expenditures; (b) the projected cost of the regulation on localities; (c) a description of the

individuals, businesses or other entities that are likely to be affected by the regulation; (d) the agency's best estimate of the number of such entities that will be affected; and e) the projected cost of the regulation for affected individuals, businesses, or other entities.

The recognition that training for minimum levels of competency needs to increase as the requirements of law, technology, and citizen involvement change does have a financial impact for the delivery of this training. The General Assembly addressed this issue with legislation providing for an on-going and consistent additional source of funding to regional training academies during 1997. The sufficiency of the level of funding and distribution of funding will be an issue to address from time-to-time. However, the majority of certified criminal justice training academies are providing some type of physical training in their program currently.

Detail of Changes

Please detail any changes, other than strictly editorial changes, that are being proposed. Please detail new substantive provisions, all substantive changes to existing sections, or both where appropriate. This statement should provide a section-by-section description - or cross-walk - of changes implemented by the proposed regulatory action. Where applicable, include citations to the specific sections of an existing regulation being amended and explain the consequences of the proposed changes.

The substantive change being proposed is simply to remove the word "Optional" by Category 9, Physical Issues, under 6 VAC 20-20-21, B.9. A format change is also being incorporated at the request of the Virginia Registrar of Regulations to add a section showing all the performance outcomes for these standards. This has been added as 6 VAC 20-20-100.

Alternatives

Please describe the specific alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action.

The proposed regulation was adopted as optional in 1997. No other alternatives meet the essential purpose of mandating this proposal.

Public Comment

Please summarize all public comment received during the NOIRA comment period and provide the agency response.

As with all of the standards adopted in 1997, the physical issues standards were developed based on the data compiled from the 1995 Law Enforcement Job Task Analysis and the work of a

committee whose members included subject matter experts in the area of physical training for law enforcement officers.

Comments received during the NOIRA comment period reflected concern with two physical issues standards. The first related to pushing a car, either alone or with someone. The second related to kicking open a door. These issues were addressed in the public hearing held by the Committee on Training of the Board of Criminal Justice Services in November, 1997. It was noted that a department may have a policy against officers pushing a car or kicking open a door, however, when exigent circumstances require, an officer will perform these tasks anyway. This occurred in 1998 when a Petersburg police officer kicked open the door of a house on fire and rescued an older woman and her grandson. The officer was first on the scene before firefighters arrived and courageously responded to the situation.

It is much more realistic to train the officer to perform the tasks with proper techniques that will help minimize injury. Just as an officer would not fire a weapon unless the circumstances require it, the officer should not normally push a car or kick open a door. Should exigent circumstances arise, however, the officer will be prepared to do so using an approach to help minimize possible injury. All of the physical issues standards are designed to train officers to perform tasks related to their job with approaches that will help minimize possible injury.

Clarity of the Regulation

Please provide a statement indicating that the agency, through examination of the regulation and relevant public comments, has determined that the regulation is clearly written and easily understandable by the individuals and entities affected.

The physical issues standards have been in the public domain for over two years. The impact of the regulation is the removal of the word "Optional" which clearly indicates that the Category 9, Physical Issues standards will be mandated. This is understood by the affected and interested constituency.

Periodic Review

Please supply a schedule setting forth when the agency will initiate a review and re-evaluation to determine if the regulation should be continued, amended, or terminated. The specific and measurable regulatory goals should be outlined with this schedule. The review shall take place no later than three years after the proposed regulation is expected to be effective.

The Rules Relating to Compulsory Minimum Training Standards for Law Enforcement provide for annual review of the training standards by a standing Curriculum Review Committee. Changes and updates will be made on a timely basis to the training objectives, criteria for testing and lesson plan guides using this method. Suggestions related to changes in the performance outcomes, categories, and hours for training are made in accordance with the Administrative Process Act.

Family Impact Statement

Please provide an analysis of the proposed regulatory action that assesses the potential impact on the institution of the family and family stability including the extent to which the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The proposed amendments indirectly impact the family and family stability in terms of the assurance of competent resources to provide emergency assistance should any family member be in need of these. This amendment will assure that entry-level officers are physically able to perform the duties of a law enforcement officer thus providing a greater degree of competence and service to all citizens.